

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Atlas )  
Commodities, LLC for Renewal of its ) Case No. 13-395-GA-AGG  
Certification as a Competitive Retail Natural )  
Gas Broker in Ohio. )

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**MOTION FOR PROTECTIVE ORDER AND  
MOTION TO EXTEND EXISTING PROTECTIVE ORDER**

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Atlas Commodities, LLC (Atlas or the Applicant), by and through counsel, hereby moves for a protective order pursuant to Rule 4901-1-24, Ohio Administrative Code (O.A.C.), to designate Renewal Application Exhibit C-7 to its application for renewal of its certification as a competitive retail natural gas broker (Renewal Application) as confidential, and to extend the protective order covering two exhibits attached to its previously-approved application for certification (Exhibits C-3 and C-5). The basis for these motions is set forth in the accompanying memorandum in support. Consistent with the requirements of Rule 4901-1-24, O.A.C., three unredacted copies of Renewal Application Exhibit C-7 is submitted under seal.<sup>1</sup>

WHEREFORE, Atlas respectfully requests that the Public Utilities Commission of Ohio (Commission) approve its motion for protective order seeking confidential treatment of Renewal Application Exhibit C-7, and its motion to extend the existing protective order in order to maintain confidential treatment of Exhibits C-3 and C-5 to its previously-approved application.

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<sup>1</sup> Atlas also filed Renewal Application Exhibits C-3 (financial statements) and C-5 (forecasted financials) under seal in the above-captioned docket, pursuant to Rule 4901:1-27-08(A), O.A.C., with Exhibit C-7.

Respectfully submitted,

/s/ Rebecca L. Hussey

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**MEMORANDUM IN SUPPORT**

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Atlas respectfully requests that the Commission grant confidential treatment to Renewal Application Exhibit C-7 and extend the protective order which protects from public disclosure the materials contained in confidential Exhibits C-3 and C-5 to its previously-approved application for certification as a competitive retail natural gas broker in Ohio. If released to the public, the information contained in these exhibits would harm Atlas, as it would provide its competitors with sensitive, proprietary information which is not generally known or available to the public.

Rule 4901-1-24(D), O.A.C., permits an attorney examiner to issue an order to protect the confidentiality of information contained in a document filed at the Commission "to the extent that state or federal law prohibits release of the information, including where the information is deemed to constitute a trade secret under Ohio law, and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."

Section 1333.61(D), Revised Code, defines a trade secret as information which "(1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use[; and] (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." Further, Section 149.43, Revised Code, states that the

term "public records" excludes information which, under state or federal law, may not be released. The Supreme Court of Ohio has opined that this "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State* (2000), 89 Ohio St.3d 396, 399, 2000-Ohio-475. Moreover, in *State ex rel. The Plain Dealer v. Ohio Dept. of Insurance*, the Supreme Court of Ohio adopted the following six factor test to determine whether information constitutes a "trade secret" under Section 1333.61, Revised Code:

- (1) the extent to which the information is known outside the business;
- (2) the extent to which it is known to those inside the business, i.e., by the employees;
- (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information;
- (4) the savings effected and the value to the holder in having the information as against competitors;
- (5) the amount of effort or money expended in obtaining and developing the information;
- (6) the amount of time and expense it would take for others to acquire and duplicate the information.

*State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St.3d 513, 524-25, 87 N.E.2d 661.

Applying these factors to the information contained in the exhibits that Atlas seeks to protect, the Commission should grant Atlas's motions in their entirety. Renewal Application Exhibit C-7 covers Atlas's credit report. The information appearing in this report is not widely known outside the business, and further, is not known by those inside the business who are employed in capacities other than those that encompass financial and accounting services. Information of the nature contained in this exhibit is not generally disclosed, as such disclosure may give competitors an advantage that could damage Atlas's ability to compete in a number of important markets. Moreover, confidential treatment of the information contained in Renewal Application Exhibit C-7 is not inconsistent with the purposes of Title 49 of the Revised Code.

Additionally, Atlas requests the Commission's extension of the confidential treatment provided to the financial statements and financial forecasts in Exhibits C-3 and C-5, respectively, to its currently-approved application for certification. Atlas contends that the information contained in these exhibits, for which the Commission previously granted a protective order, continues to be valuable to competitors and is not widely known outside the business. Disclosure of this information may adversely affect Atlas, in that it could provide competitors with an unfair advantage over Atlas. Atlas further contends that continued confidential treatment of the information contained in Exhibits C-3 and C-5 is not inconsistent with the purposes of Title 49 of the Revised Code.

In light of the nature of the exhibits for which Atlas seeks confidential treatment and the competitive advantage which disclosure of the information contained in the exhibits may provide to its competitors, the Commission should grant Atlas's motion for a protective order and its motion to extend the existing protective order.

WHEREFORE, Atlas respectfully requests that its motion for protective order seeking confidential treatment of Renewal Application Exhibit C-7 and its motion to extend the existing protective order, thereby maintaining confidential treatment of Exhibits C-3 and C-5 to its previously-approved application, be granted by the Commission.

Respectfully submitted,

/s/ Rebecca L. Hussey

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Summary: Motion for Protective Order and Motion to Extend Existing Protective Order  
electronically filed by Ms. Rebecca L Hussey on behalf of Atlas Commodities, LLC